S.B.Cr.Misc. II Bail App. No. 857/2006
(Ram Prasad Vs. State of Rajasthan)

Date of order : 01/06/2006

HON'BLE MR.H.R.PANWAR, J.

Dr. S.S.Jodha, for the petitioner.
Mr. J.P.S.Choudhary, Public Prosecutor.
Mr. Sandeep Mehta }
Mr. J.R.Choudhary } for the complainant.

Heard learned counsel for the petitioner and the Public Prosecutor for the State assisted by counsel for the complainant.

This is second bail application. The first bail application came to be dismissed by order dated 08.12.2004. After dismissal of the earlier bail application, number of prosecution witnesses have been examined.

It is contended by the learned counsel for the petitioner that the occurrence is of between 2.00 P.M. To 2.30 P.M. on 03.7.2004 and there was agitation by the villagers on which the police came to the place of occurrence. One of the police personnel Ramsingh took the petitioner in a police jeep to the police station at 5.00 P.M. The matter was investigated by Sub-Divisional Magistrate, Nava vide report dated 07.07.2004. The Sub-Divisional Magistrate reached the spot and it is said that some persons came in two jeeps and took away Baba Satyanand. The petitioner was at his house and was taken to the police station by the police. On the strength of this, learned counsel submits that the petitioner was not the person who abducted Baba Satyanand Maharaj and caused any injury to him. It is stated that Baba was allegedly kidnapped from village Solaya and taken to

Pushkar at a distance of about 150 km., where on the next day, his dead body was found. According to learned counsel for the petitioner, the petitioner did not accompany the abductors which is evident from the inquiry held by Sub-Divisional Magistrate as also the statement of one Ramsingh recorded by SDM in the said inquiry. Learned counsel further submits that PW-2 Satyanarayan has not witnessed the occurrence. He has stated that he along with Bhanwarlal came to Solaya in a bus and was giving the account of the bus and sat under a tree. He heard some noise of scolding; he asked to an old lady about the scolding, who at the relevant time was present. She informed that Baba was being assaulted. The other witness is PW-4 Bannaram. According to learned counsel for the petitioner, he has also not witnessed the occurrence for the reason that PW-5 Nandaram has stated that at the time of occurrence, he did not see any person of village Solaya. He belongs to village Nava. Therefore, learned counsel submits that in view of statement of PW-5 Nandaram, PW-4 Banna Ram who belongs to village Solaya was not present at the place of occurrence and, therefore, did not witness the occurrence. Learned counsel further submits that the prosecution witnesses PW-3 Bhopal Ram, PW-8 Nolaram, PW-9 Ghasi Ram, PW-11 Bhanwarlal, PW-12 Malchand @ Babulal, PW-13 Mannaram, PW-14 Prabhati, PW-16 Pemaram and PW-17 Rameshwar have not supported the prosecution case and have turned hostile.

Learned public prosecutor and counsel appearing for the complainant submit that these witnesses have turned hostile, but so

far as the present petitioner is concerned, some of the witnesses PW-3 Bhopal Ram, PW-4 Bannaram, PW-5 Nandaram and PW-18 Heeralal have named the petitioner. PW-18 Heeralal stated that the persons who abducted the Baba were Ashok, Rajendra, Bhanwarlal, Aslam, Brajmohan etc.

I have carefully gone through the statements of these witnesses. Some of the accused namely Aslam, Brijmohan, Ramswaroop, Smt. Soni and Smt. Singari have already been granted bail. From the statement of PW-2 Satyanarayan, it appears that he gathered the information from an old lady. So far as the statement of PW-4 Bannaram is concerned, according to witness PW-5 Nandaram, he is from village Nava and at the place of occurrence there was nobody from village Solaya and PW-4 is from village Solaya whose presence has not been shown by PW-5. The statement of PW-18 Heeralal is not with regard to the occurrence, he is the person who claims to have one and half drum of diesel out of which 20 liters of diesel was taken by the petitioner. Keeping in view, the inquiry report held by S.D.M. Nava as also the statement of Ramsingh and other witnesses who are not consistent that it was the petitioner who was with the other kidnappers, at any rate, there is an arguable point and that after the Baba was taken by the persons who came in two jeeps, the present petitioner was found at his residence as stated by counsel for the petitioner and was taken by the police and subsequently was arrested.

Looking to the facts and circumstances of the case and having

considered the oral arguments advanced by the counsel for the parties, without commenting on the merit of the case which may prejudice the case of either party at the trial, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this second bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Ram Prasad S/o Chhoga Lal be released on bail in FIR No. 47/2004 P.S. Maroth, district Nagaur, provided he executes a personal bond for a sum of Rs. 20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial. Any observation made hereinabove shall not be relevant at the trial of the case.

(H.R.PANWAR), J.

RP